

12.035 REPORTING POLICE VEHICULAR ACCIDENTS AND DAMAGE

Reference:

Procedure 12.225 - Vehicular Crash Reporting
 Procedure 12.435 - Report of Conditions Affecting
 Other Departments - FORM 318
 Procedure 12.535 - Emergency Operation of Police
 Vehicles
 Manual of Rules and Regulations - 2.03, 5.01, 7.03
 Traffic Crash Report Procedures - Ohio Department
 Highway Safety
 Standards Manual 61.2.1, 61.2.2
 Administrative Regulation #52 - Substance Abuse
 Policy

Definition:

Police Motor Vehicle Accident: For the purpose of this policy, a motor vehicle accident is defined as an occurrence that results in property damage and/or injury and meets the following conditions:

1. It is an accident.
2. It involves a motor vehicle that is owned or leased by the City of Cincinnati or the Police Division, or is under the control of a Police Division member during the performance of official duties.

Category 1 (negligent): Division rules require members to obey all laws. A division member is negligent (has committed a Category 1 violation) for purposes of this policy if the member violates a minor misdemeanor provision of the Cincinnati Municipal Code (CMC) or the Ohio Revised Code (ORC), or applicable statute from another jurisdiction, and is found to be at fault for a vehicular accident.

Category 2: All division members are required to know and adhere to division policy and procedure regarding the emergency operation of police vehicles. For purposes of this policy, a member has committed a Category 2 violation if he or she violates any provision of Procedure 12.535, Emergency Operation of Police Vehicles, and is found to be at fault for a vehicular accident, or if the member violates a provision of CMC or ORC, or applicable statute from another jurisdiction, that is a higher degree than a minor misdemeanor, and is found to be at fault for a vehicular accident.

Purpose:

Provide for the investigation and uniform reporting of police vehicular accidents and other damage to police vehicles. Police vehicles include automobiles, motorcycles, bicycles, and horses.

Policy:

Division members will be subject to corrective and/or disciplinary action for motor vehicle accidents where they are found to be at fault and have been negligent (Category 1) or have committed a Category 2 violation.

Procedure:**A. Documentation Needed for Accidents:**

1. Ohio Traffic Crash Report (Form OH-1)
2. Supervisors Review of Vehicle Crash (Form 90SP)
 - a. When vehicle is in motion with a driver: These accidents are investigated at the scene by a supervisor.
 - b. When vehicle is in motion without a driver: These accidents are investigated at the scene by a supervisor.
 - c. When vehicle is parked on public or private property: These accidents are investigated at the scene by a supervisor.
 - d. When a bike, horse, etc., is struck by a motor vehicle: These accidents are investigated at the scene by a supervisor.

B. Police Vehicles Involved in Auto Accidents:

1. The operator of any police vehicle involved in any vehicular accident will:
 - a. Allow the vehicle(s) to remain in the post-accident position if traffic conditions permit. With the exception of emergency circumstances, do not remove the vehicle(s) from the immediate vicinity.

- b. Provide aid and transportation for the injured, if necessary.
- c. Immediately request Police Communications Section (PCS) to dispatch an appropriate district car and district/section/unit supervisor to investigate the accident.
 - 1) It is the responsibility of the supervisor of the district/section/unit to which the operator is assigned to conduct the supervisory portion of the investigation.
 - a) If the district/section/unit responsible has no available supervisor, the nearest available district supervisor will conduct the investigation and will forward the forms to the vehicle operator's supervisor for review and processing.
 - 2) If a horse is the police vehicle involved in an auto accident and the horse receives an injury, unless the injury is very minor, the investigating supervisor will request a Mounted Squad supervisor respond, including recall via city pager if necessary.
 - 3) If a serious accident involving a police vehicle occurs, the investigating supervisor will request Traffic Unit respond, including recall if necessary.
 - 4) The investigating supervisor will also notify the Transportation/Fleet Management Section Commander via PCS. The supervisor will then proceed with the accident investigation.
 - 5) The investigating supervisor will ensure, if possible, photographs are taken of damage to all involved property.

2. Reports required:

- a. When police equipment is involved in an auto accident, even if on private property, supervisors will ensure the following steps are completed:
 - 1) Form OH-1 prepared by the investigating officer
 - 2) Form 90SP prepared by the investigating supervisor
 - 3) For Police Division reporting purposes, any time a police vehicle is involved in an auto accident an Ohio Motor Vehicle Crash Report (Form BMV-3303) will be completed at the time the Ohio Crash Report (Form OH-1) is completed.
 - a) The Transportation/Fleet Management Section will forward Form BMV-3303 to the Ohio Bureau of Motor Vehicles (BMV) when required.
 - b) Officers will be required to sign any Form BMV 3303 when the driver of an involved vehicle is uninsured. The Form BMV 3303 is then forwarded to BMV. If the Form BMV 3303 is completed for city reporting purposes only (i.e., the driver is insured), the officer's signature is not required.
 - b. If the accident causes damage to other city property, e.g., fire hydrant, the investigating supervisor will prepare a Form 318, in accordance with Procedure 12.435.
3. The vehicle operator's supervisor will make a blotter entry briefly describing the facts of the accident. Indicate the necessary reports have been made.
4. The supervisor will make the appropriate entries in the police vehicle jacket.

5. The investigating supervisor will examine the damaged vehicle to determine if it is safe for use. Consider both mechanical defects and unsightliness.
 - a. Tow or drive the vehicle to the Fleet Services garage if the vehicle is removed from service.
 - b. During regular Fleet Services garage working hours, and if the vehicle is safe for patrol duty, take it to the garage for an estimate at the body shop.
 - c. After regular Fleet Services garage working hours, the first shift officer in charge (OIC) will send the vehicle to the garage after 0900 hours on the next regular working day for an estimate at the body shop.
 - d. The officer taking the vehicle to the body shop will notify the investigating supervisor of the estimate amount.
 - e. The supervisor will enter the estimate in the blotter and on Form 90SP in the appropriate place.
- C. Documentation Needed For Incidents Which Are Not Auto Accidents:
 1. Immediately notify a supervisor in the district of occurrence of the incident.
 2. Do not complete a Form 90SP. Supervisors will ensure the necessary forms are completed based on the cause of the damage.
 - a. Damage (scratches, dents, body damage, etc.) which is not the result of a criminal act is reported on a Cincinnati Police General Conditions Report (Form 317).
 - b. Damage (broken window, flattened tire, radio antenna broken, etc.) which is the result of a criminal act is reported on a Cincinnati Police Division Incident Report (Form 301).

c. Incidents occurring which result in personal injury or property damaged by police equipment (e.g., collisions involving division bikes, horses, etc., with persons/property) are reported on a Form 301.

1) If injury/damage is due to horse involvement, a Mounted Squad supervisor will investigate the incident and ensure a Form 301 is completed. If unavailable, notify a Park Unit supervisor.

a) If neither of the above are available, notify a supervisor in the district of occurrence.

b) In all cases, the supervisor notified will prepare a Form 17 with all pertinent facts and route through the chain of command.

3. Supervisors are to adhere to section B.5. of this procedure when police vehicles are damaged.

D. Progressive Corrective/Disciplinary Action

1. Progressive corrective/disciplinary action will be administered for Category 1 and Category 2 vehicular accidents involving division members.

a. Division members will be subject to disciplinary action for auto accidents where they are found to have been negligent when any of the following apply:

1) The member has been found at fault in four or more Category 1 motor vehicle accidents within a 24-month period.

2) The member has been found at fault in two or more Category 2 motor vehicle accidents within a 24-month period.

- 3) The member has been found at fault in three Category 1 and one Category 2 motor vehicle accidents within a 24 month period.
- 4) The member has been found at fault in a Category 1 or Category 2 motor vehicle accident that resulted in serious injury, as defined by ORC 2901.01(E), or death.

E. Uniform Corrective/Disciplinary Action Guidelines:

- 1. Mitigating factors, including but not limited to injuries and property damage, will be considered to affix disciplinary penalties within the range indicated by this policy.

a. Category 1 Accidents (24 month period):

- 1st Category 1 accident: ESL entry
- 2nd Category 1 accident: ESL entry and driver training
- 3rd Category 1 accident: Written Reprimand and driver training
- 4th Category 1 accident: Pre-Disciplinary Hearing

Sustained finding for 4th Category 1 accident: 8 hours suspension

Sustained finding for 5th Category 1 accident: 8 - 24 hours suspension

Sustained finding for 6th Category 1 accident: 24 - 40 hours suspension

Sustained finding for 7th Category 1 accident: 40 hours suspension - dismissal

b. Category 2 Accidents (24 month period)

- 1st Category 2 accident: Written Reprimand and driver training

2nd Category 2 accident: Pre-
Disciplinary
Hearing

Sustained finding for 2nd Category 2
accident: 8 - 24 hours suspension

Sustained finding for 3rd Category 2
accident: 24 - 40 hours suspension

Sustained finding for 4th Category 2
accident: 40 hours suspension -
dismissal

F. Responsibilities Of The District/Section/Unit
Commanders

1. District/section/unit commanders will carefully analyze and evaluate all accidents involving personnel under their command. They will arrange appropriate corrective training and make disciplinary recommendations. The primary objective is to identify the accident prone and careless driver. The district/section/unit commander will:
 - a. Sign and make recommendations/ comments in Block 33 of Form 90SP.
 - b. Forward completed Forms 90SP and BMV-3303, when required, any photos, and a copy of Form OH-1, through the chain of command, to the Transportation/Fleet Management Section.
2. All reports of negligent accidents will be routed to the Bureau Commander for review. If any of the circumstances listed under Section D.1.d. apply, a pre-disciplinary hearing will be scheduled, with the Bureau Commander acting as the Division Hearing Officer.
3. The Transportation/Fleet Management Section, upon receipt of Forms 90SP, OH-1, and BMV-3303, will:
 - a. Examine the reports for completeness and accuracy, and evaluate the facts of the accident.

- 1) Forward copies of Forms 90SP and OH-1, and the garage estimate to Fiscal and Budget Section when an outside party is at fault.
- b. Send the original Form BMV-3303 to the BMV when required.
- c. Send a form letter to the BMV with pertinent information from the Form OH-1 to ensure sworn personnel do not receive points on their driver's license. (This applies only to on-duty accidents.)
- d. File in the vehicle jacket:
 - 1) Any photos.
 - 2) The original copy of Form 90SP.
 - 3) The duplicate copy of Form OH-1.
 - 4) The duplicate copy of Form BMV-3303 when required.

G. Post-Accident Testing

1. As soon as practical following a vehicular accident involving a division member, while in the course and scope of his/her duty and/or who was operating a city vehicle, the member shall be tested for drugs and alcohol if:
 - a. The accident involves the loss of human life, or
 - b. The member receives a citation under state or local law for a moving violation arising from the accident.
2. A member who is subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or prohibit a member from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

- a. The results of blood or breath tests for alcohol detection or urine tests for drug detection which are conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of this section, provided such tests conform to applicable federal, state, or local requirements, and the results are obtained by the city. Blood alcohol tests will be expressed as grams per 100 ml of blood.
3. Members required to take a post-accident alcohol test shall not use alcohol for eight hours following the accident or until the member undergoes a post-accident test, whichever comes first.
 - a. If an alcohol test is not administered to the member within two hours following the accident, the supervisor shall prepare a Form 17 stating the reasons the test was not administered.
 - b. If an alcohol test is not administered to the member within eight hours following the accident, attempts to administer an alcohol test shall cease and the supervisor shall prepare a Form 17 stating the reasons the test was not administered.
4. If a drug test is not administered to the member within 32 hours following the accident, attempts to administer a drug test shall cease and the supervisor shall prepare a Form 17 stating the reasons the test was not administered.
 - a. Testing for drugs or alcohol will be conducted at OccNet Testing Express, located at the Alliance Business Center (formerly the Jewish Hospital), 3200 Burnet Avenue, Monday-Friday, 0700-1730 hours.
 - b. The Jewish Hospital of Kenwood, Health Alliance, 4777 E. Galbraith Road, will administer drug tests from 1730 hours to 0700 hours and on weekends.